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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,295	11/15/2005	Cristiano Casale	1034170-000028	6251

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

VOLZ, ELIZABETH J

ART UNIT	PAPER NUMBER
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3781

NOTIFICATION DATE	DELIVERY MODE
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12/23/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
offserv@bipc.com

Office Action Summary	Application No. 10/531,295	Applicant(s) CASALE ET AL.	
	Examiner ELIZABETH VOLZ	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/3/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

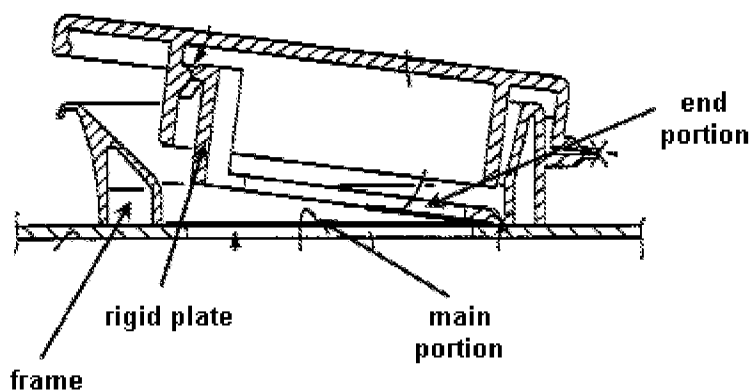
2. Claims 18-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odet (WO 00/56612) in view of Ramsey et al. (U.S. Pub. No. 2001/0054616).

3. Regarding Claims 18 and 27, Odet discloses a sealed package of pourable food product comprising: a plurality of walls 16 (Figure 2); a through hole 18 (Figure 2) passing through one of the walls; an upstanding frame (Figure 2 below) fixed to the package, the upstanding frame defining a pour opening (Figure 2) through which the pourable food product can flow; a cap 2 (Figure 2) fitted to the frame and closing the pour opening, the cap being removable from the frame (Figure 2); a rigid plate (Figure 2 below) positioned in the upstanding frame and extractable from the frame by pulling action; a pull-tab 19 (Figure 2) of sheet material having a sealed end at an edge of the through hole, and a free, unsealed end at an opposite end of the pull-tab (Figure 2 below) and at an initial position, the pull-tab of sheet material being attached to the removable portion and the free, unsealed end being attached to the rigid plate (Figure 2); the pull-tab of sheet material not being a part of the rigid plate and not being a part of the removable portion (Figure 2); and the pull-tab of sheet material connecting the rigid plate to the removable portion so that pulling action applied to the rigid plate after

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removing the cap is first applied to the free, unsealed end of the pull-tab of sheet material to remove the free, unsealed end from the initial position, and is subsequently applied to the removable portion attached to the pull-tab of sheet material to cause removal of the part of the removable portion after the free, unsealed end is removed (Figure 2). Odet does not disclose a removable portion fixed to one wall and completely covering the through hole. However, Ramsey et al. teaches a removable portion 15 (Figure 1) fixed to one wall and completely covering the through hole (Figure 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Odet to include a removable portion, as taught by Ramsey et al., in order to provide a greater seal to the container.

Figure 2 (Odet)



4. Regarding Claims 19 and 28, Odet discloses a pull-tab 19 (Figure 2) which comprises a main portion (Figure 2 above) and an end portion (Figure 2 above) folded back onto the main portion so that the end portion overlies the main portion (Figure 2), the main portion being attached to the removable portion and the end portion being the free, unsealed end attached to the rigid plate (Figure 2).

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5. Regarding Claims 20 and 29, Odet discloses a plate (Figure 2 above) which is connected integrally to the frame by breakable strips of connecting material 21 (Figure 3), the breakable strips being parallel to each other.

6. Regarding Claims 21 and 30, Odet discloses one wall 16 (Figure 2) includes an exterior surface and an interior surface (Figure 2), the frame (Figure 2 above) being tubular and possessing an outer surface facing an inner surface of the cap (Figure 2), the tubular frame being fixed to the exterior surface of the one wall (Figure 2).

7. Regarding Claims 22 and 31, Odet discloses a tubular frame which does not pass through the through hole in the one wall. (Figure 2).

8. Regarding Claims 23-26 and 32-35, Odet teaches all the limitations substantially as claimed except for a removable portion which is fixed to the inner surface of the one wall which is an edge of the through hole. However, Ramsey et al. teaches a removable portion 15 (Figure 1) which is fixed to the inner surface of the one wall which is the edge to the through hole. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Odet to include a removable portion, as taught by Ramsey et al., in order to provide a greater seal to the container.

9. Regarding Claims 36 and 37, Odet discloses a pull-tab 19 (Figure 2) which completely covers the through hole before the removable portion is removed by pulling action applied to the rigid plate.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing

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out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Response to Arguments

11. Applicant's arguments with respect to claims 18-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
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